

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H.B. 641
Apr 9, 2019
HOUSE PRINCIPAL CLERK

H

D

HOUSE BILL DRH10354-ND-66

Short Title: Modifications to Various DPS Provisions. (Public)

Sponsors: Representatives Boles, Pierce, Speciale, and R. Turner (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE CHANGES TO LAWS RELATED TO PUBLIC SAFETY, AS
3 RECOMMENDED BY THE DEPARTMENT OF PUBLIC SAFETY.
4 The General Assembly of North Carolina enacts:

5
6 **PART I. NC NATIONAL GUARD CIVILIAN LEAVE OPTION.**

7 **SECTION 1.** G.S. 127A-111(a) reads as rewritten:

8 "(a) A member of the North Carolina National Guard called into service of the State by
9 the Governor shall have the right to take leave without pay from ~~his or her~~ the member's civilian
10 employment. No member of the North Carolina National Guard shall be forced to use ~~or exhaust~~
11 ~~his or her~~ any of the member's vacation or other accrued leaves from ~~his or her~~ the member's
12 civilian employment for a period of active service. The choice of leave shall be solely within the
13 discretion of the member."
14

15 **PART II. LAPSED PROVISION PROVIDING DEPARTMENTAL MAINTENANCE**
16 **WORKERS TO REPAIR CERTAIN SYSTEMS, SUCH AS ELECTRICAL OR**
17 **PLUMBING, WITHOUT REQUIRING LICENSURE BY STATE LICENSING**
18 **BOARDS.**

19 **SECTION 2.** Article 13 of Chapter 143B of the General Statutes is amended by
20 adding a new section to read:

21 **"§ 143B-600.1. Employees of the Department of Public Safety may perform installation,**
22 **construction, maintenance, and repair work for the Department.**

23 Notwithstanding any other provision of the law, an employee of the North Carolina
24 Department of Public Safety may perform work involving the installation, construction,
25 maintenance, or repair of any buildings, wiring, piping, devices, appliances, or equipment located
26 in or constituting improvements located on State-owned land without the requirement of
27 licensure under Chapter 87 of the General Statutes if the work is performed by an employee who
28 is employed by the Department and either the work performed is valued at less than one hundred
29 thousand dollars (\$100,000) or all work is performed as force-account work otherwise authorized
30 by law up to the value authorized. The Office of State Construction may regulate work performed
31 pursuant to this section to ensure compliance with building and safety codes. Nothing in this
32 section shall be construed to allow an employee of a State agency or institution to engage in any
33 activities described in this section privately or outside the employee's scope of employment
34 without meeting all licensure requirements otherwise required by law."
35



1 **PART III. CLARIFY AND REVISE DUTIES AND POWERS OF PROBATION**
2 **OFFICERS.**

3 **SECTION 3.** G.S. 15-205 reads as rewritten:

4 **"§ 15-205. Duties and powers of the probation officers.**

5 "(a) A probation officer shall investigate all cases referred to him—the officer for
6 investigation by the judges of the courts or by the Secretary of Public Safety. ~~Such—The~~ officer
7 shall keep informed concerning the conduct and condition of each person on probation under ~~his~~
8 ~~the officer's~~ supervision by visiting, requiring reports, and in other ways, and shall report ~~thereon~~
9 in writing as often as the court or the Secretary of Public Safety may require. ~~Such—The~~ officer
10 shall use all practicable and suitable methods, not inconsistent with the conditions imposed by
11 the court or the Secretary of Public Safety, to aid and encourage persons on probation to bring
12 about improvement in ~~their—each person's~~ conduct and condition. ~~Such—The~~ officer shall keep
13 detailed records of ~~his work; the officer's work,~~ shall make ~~such~~ reports in writing to the Secretary
14 of Public Safety as ~~he—the Secretary of Public Safety~~ may ~~require; require,~~ and shall perform ~~such~~
15 other duties as the Secretary of Public Safety may require. A probation officer shall have, in the
16 execution of ~~his—the officer's~~ duties, the powers of arrest and, ~~to the extent necessary for the~~
17 ~~performance of his duties, the same right to execute process as is now given, or that may hereafter~~
18 ~~be given by law, to the sheriffs of this State.~~the authority to serve any warrant or other process
19 issuing from any of the courts of the State having criminal jurisdiction.

20 (b) Probation officers shall have authority to assist law enforcement officers in effecting
21 arrests and preventing escapes from custody when requested to do so by the officer or when, in
22 the judgment of the probation officer, such assistance may be necessary. When rendering
23 assistance pursuant to this provision, probation officers have authority to arrest and to take
24 enforcement action for any criminal offense.

25 (c) Probation officers shall have the subject matter jurisdiction of law enforcement
26 officers on prison property for the purpose of protecting life and property, for the purpose of
27 transferring prisoners from place to place as the officers' duties might require, and for
28 apprehending, arresting, and returning to prison escaped prisoners.

29 (d) Probation officers shall have subject matter jurisdiction of law enforcement officers
30 when responding to active assailant incidents and civil disturbances or when assigned by the
31 Secretary to perform additional duties during times of manmade or natural disasters."

32
33 **PART IV. MOTOR FLEET EXEMPTION FOR PROBATION OFFICERS.**

34 **SECTION 4.** G.S. 143-341(8)i.3. reads as rewritten:

35 "3. To require on a schedule determined by the Department all
36 State agencies to transfer ownership, custody or control of any
37 or all passenger motor vehicles within the ownership, custody
38 or control of that agency to the Department, except those motor
39 vehicles under the ownership, custody or control of the
40 Highway Patrol, the State Bureau of Investigation, the
41 Samarcand Training Academy, Community Corrections, or the
42 constituent institutions of The University of North Carolina
43 which are used primarily for law-enforcement purposes."

44
45 **PART V. CLARIFY, EXPAND, AND REVISE DUTIES OF POST-RELEASE**
46 **SUPERVISION AND PAROLE COMMISSION.**

47 **SECTION 5.** G.S. 143B-720 reads as rewritten:

48 **"§ 143B-720. Post-Release Supervision and Parole Commission – creation, powers and**
49 **duties.**

50 (a) There is hereby created a Post-Release Supervision and Parole Commission of the
51 Division of Adult Correction and Juvenile Justice of the Department of Public Safety with the

1 authority to grant paroles, including both regular and temporary paroles, to persons held by virtue
2 of any final order or judgment of any court of this State as provided in Chapter 148 of the General
3 Statutes and laws of the State of North Carolina, except that persons sentenced under Article 81B
4 of Chapter 15A of the General Statutes are not eligible for parole but may be conditionally
5 released into the custody and control of United States Immigration and Customs Enforcement
6 pursuant to G.S. 148-64.1. The Commission shall also have authority to revoke, terminate, and
7 suspend paroles of such persons (including persons placed on parole on or before the effective
8 date of the Executive Organization Act of 1973) and to assist the Governor in exercising ~~his~~the
9 Governor's authority in granting reprieves, commutations, and pardons, and shall perform such
10 other services as may be required by the Governor in exercising ~~his~~the Governor's powers of
11 executive clemency. The Commission shall also have authority to revoke and terminate persons
12 on post-release supervision, as provided in Article 84A of Chapter 15A of the General ~~Statutes.~~
13 Statutes, and issue orders of temporary or conditional revocation of post-release supervision and
14 parole subjecting supervisees and parolees to arrest by a law enforcement officer or a post-release
15 supervision and parole officer. The Commission shall also have the authority to punish for
16 criminal contempt for willful refusal to accept post-release supervision or to comply with the
17 terms of post-release supervision by a prisoner whose offense requiring post-release supervision
18 is a reportable conviction subject to the registration requirement of Article 27A of Chapter 14 of
19 the General Statutes. Any contempt proceeding conducted by the Commission shall be in
20 accordance with G.S. 5A-15 as if the Commission were a judicial official.

21 ...

22 (h) All orders of temporary or conditional revocation of post-release supervision and
23 parole subjecting supervisees and parolees to arrest by a law enforcement officer or a post-release
24 supervision and parole officer shall be entered into NCAWARE."

25
26 **PART VI. MALICIOUS CONDUCT BY PRISONER CLARIFICATION. CLARIFY**
27 **MALICIOUS CONDUCT STATUTE TO EXPRESSLY REQUIRE AN ACTIVE**
28 **SENTENCE FOR FELONY OFFENSES. (NO EXCEPTIONS FOR NONVIOLENT**
29 **FIRST TIME OFFENDERS, CONDITIONAL DISMISSALS UNDER G.S. 90-96, OR**
30 **OTHER COMPARABLE JUDICIAL DISPOSITION ALTERNATIVES.)**

31 SECTION 6.(a) G.S. 14-258.4 reads as rewritten:

32 "**§ 14-258.4. Malicious conduct by prisoner.**

33 (a) Any prisoner who knowingly and willfully throws, emits, or causes to be used as a
34 projectile, any bodily fluids, excrement, or unknown substance at an employee, while the
35 employee is in the performance of the employee's duties, is guilty of a Class F felony.

36 (b) Any prisoner who knowingly and willfully exposes genitalia to an employee while
37 the employee is in the performance of the employee's duties is guilty of a Class I ~~felony~~felony
38 and shall be sentenced to a minimum term of six months and a maximum term of 12 months in
39 the State's prison.

40 (c) The provisions of this section apply to violations committed inside or outside of the
41 prison, jail, detention center, or other confinement facility.

42 (d) Sentences imposed under this ~~Article~~section shall run consecutively to and shall
43 commence at the expiration of any sentence being ~~served~~served, for any offense, by the person
44 ~~sentenced under this section.~~sentenced."

45 SECTION 6.(b) This section is effective December 1, 2019, and applies to offenses
46 committed on or after that date.

47
48 **PART VII. PROVIDING FORBIDDEN ARTICLES OR TOOLS FOR ESCAPE;**
49 **POSSESSING TOOLS FOR ESCAPE CLARIFICATION. CLARIFY STATUTE TO**
50 **EXPRESSLY REQUIRE AN ACTIVE SENTENCE FOR FELONY OFFENSES. (NO**
51 **EXCEPTIONS FOR NONVIOLENT FIRST TIME OFFENDERS, CONDITIONAL**

1 **DISMISSALS UNDER G.S. 90-96, OR OTHER COMPARABLE JUDICIAL**
2 **DISPOSITION ALTERNATIVES.)**

3 **SECTION 7.(a)** G.S. 14-258 reads as rewritten:

4 **"§ 14-258. Providing forbidden articles or tools for escape; possessing tools for escape.**

5 (a) Providing Forbidden Articles or Tools for Escape. – Any person who sells, trades,
6 conveys, or provides any of the following to a prisoner is guilty of a Class H felony:

7 (1) An article forbidden by prison rules.

8 (2) A letter, oral message, weapon, tool, good, clothing, device, or instrument, to
9 effect an escape, or aide in an assault or insurrection.

10 (b) Increased Penalty. – Any violation of subdivision (2) of subsection (a) of this section
11 that does effect an escape, assault, or insurrection is a Class F felony.

12 (c) Possessing Tools for Escape. – Any prisoner who possesses a letter, weapon, tool,
13 good, article of clothing, device, or instrument to ~~do any of the following effect an escape or aid~~
14 in an assault or insurrection is guilty of a Class H felony; felony and shall be sentenced to a
15 minimum term of 12 months and a maximum term of 24 months in the State's prison.

16 ~~(1) To effect an escape.~~

17 ~~(2) Aide in an assault or insurrection.~~

18 (d) Application. – The provisions of this section apply to violations committed inside or
19 outside of the prison, jail, detention center, or other confinement facility."

20 **SECTION 7.(b)** G.S. 15A-1368.1 reads as rewritten:

21 **"§ 15A-1368.1. Applicability of Article 84A.**

22 This Article applies to all felons sentenced to an active punishment under Article 81B of this
23 ~~Chapter or Chapter~~, G.S. 90-95(h), 14-258, or 14-258.4, but does not apply to felons in Class A
24 and Class B1 sentenced to life imprisonment without parole. Prisoners subject to Articles 85 and
25 85A of this Chapter are excluded from this Article's coverage."

26 **SECTION 7.(c)** This section is effective December 1, 2019, and applies to offenses
27 committed on or after that date.

28
29 **PART VIII. TORT CLAIMS REVISIONS.**

30 **SECTION 8.(a)** Article 1 of Chapter 143 of the General Statutes is amended by
31 adding a new section to read:

32 **"§ 143-18.2. Prisoner property.**

33 (a) In no event shall the personal property of an inmate in the custody of the Department
34 of Public Safety, Division of Adult Correction and Juvenile Justice, exceed a maximum total
35 value of two hundred fifty dollars (\$250.00).

36 (b) When the property of an inmate in the custody of the Department of Public Safety,
37 Division of Adult Correction and Juvenile Justice, is lost, destroyed, or otherwise damaged
38 through the negligent maintenance of the correctional facility or the negligence of staff members
39 of the correctional facility, the Department of Public Safety shall reimburse the inmate for the
40 value of the item, or provide for replacement of the item, when the Department's Administrative
41 Remedies Procedure results in this recommendation. This shall be the inmate's sole remedy for
42 property loss, damage, or destruction.

43 (c) Reimbursement shall be calculated in a manner authorized by the Department of
44 Public Safety, Division of Adult Correction and Juvenile Justice Policy, but in no event shall
45 reimbursement exceed a maximum of two hundred fifty dollars (\$250.00) per incident, nor shall
46 an inmate in the custody of the Department of Public Safety, Division of Adult Correction and
47 Juvenile Justice, be reimbursed for lost, damaged, or destroyed State issued property."

48 **SECTION 8.(b)** Article 1 of Chapter 143 of the General Statutes is amended by
49 adding a new section to read:

50 **"§ 143-295.2. Inmate property claims against the Department of Public Safety.**

1 When the property of an inmate in the custody of the Department of Public Safety, Division
2 of Adult Correction and Juvenile Justice, is lost, destroyed, or otherwise damaged through the
3 negligent handling of its correctional facility, or staff members thereof, the inmate shall have no
4 recourse under this article. Instead, the Department of Public Safety shall reimburse the inmate
5 for the value of the item, or provide for replacement of the item, as described in G.S. 148-18.2."

6 **SECTION 8.(c)** G.S. 143-291 reads as rewritten:

7 **"§ 143-291. Industrial Commission constituted a court to hear and determine claims;**
8 **damages; liability insurance in lieu of obligation under Article.**

9 (a) The North Carolina Industrial Commission is hereby constituted a court for the
10 purpose of hearing and passing upon tort claims against the State Board of Education, the Board
11 of Transportation, and all other departments, institutions and agencies of the State. The Industrial
12 Commission shall determine whether or not each individual claim arose as a result of the
13 negligence of any officer, employee, involuntary servant or agent of the State while acting within
14 the scope of ~~his~~that office, employment, service, agency or authority, under circumstances where
15 the State of North Carolina, if a private person, would be liable to the claimant in accordance
16 with the laws of North Carolina. If the Commission finds that there was negligence on the part
17 of an officer, employee, involuntary servant or agent of the State while acting within the scope
18 of ~~his~~that office, employment, service, agency or authority that was the proximate cause of the
19 injury and that there was no contributory negligence on the part of the claimant or the person in
20 whose behalf the claim is asserted, the Commission shall determine the amount of damages that
21 the claimant is entitled to be paid, including medical and other expenses, and by appropriate order
22 direct the payment of damages as provided in subsection (a1) of this section, but in no event shall
23 the amount of damages awarded exceed the amounts authorized in G.S. 143-299.2 cumulatively
24 to all claimants on account of injury and damage to any one person arising out of a single
25 occurrence. Community colleges and technical colleges shall be deemed State agencies for
26 purposes of this Article. The fact that a claim may be brought under more than one Article under
27 this Chapter shall not increase the foregoing maximum liability of the State.

28 (a1) The unit of State government that employed the employee at the time the cause of
29 action arose shall pay the first one hundred fifty thousand dollars (\$150,000) of liability, and the
30 balance of any payment owed shall be paid in accordance with G.S. 143-299.4.

31 (b) If a State agency, otherwise authorized to purchase insurance, purchases a policy of
32 commercial liability insurance providing coverage in an amount at least equal to the limits of the
33 State Tort Claims Act, such insurance coverage shall be in lieu of the State's obligation for
34 payment under this Article.

35 (c) The North Carolina High School Athletic Association, Inc., is a State agency for
36 purposes of this Article, and its liability in tort shall be only under this Article. This subsection
37 does not extend to any independent contractor of the Association. The Association shall be
38 obligated for payments under this Article, through the purchase of commercial insurance or
39 otherwise, in lieu of any responsibility of the State or The University of North Carolina for this
40 payment. The Association shall be similarly obligated to reimburse or have reimbursed the
41 Department of Justice for any expenses in defending any claim against the Association under this
42 Article.

43 (d) Liability in tort of the State Health Plan for Teachers and State Employees for
44 noncertifications as defined under G.S. 58-50-61 shall be only under this Article.

45 (e) The Industrial Commission shall have no jurisdiction over any claim brought by an
46 inmate in the custody of the Department of Public Safety, Division of Adult Correction and
47 Juvenile Justice, unless and until the inmate has first exhausted the Department's Administrative
48 Remedy Procedure, as established by G.S. 148-118.2."

49 **SECTION 8.(d)** G.S. 148-118.2 reads as rewritten:

50 **"§ 148-118.2. Effect.**

1 (a) Upon approval of the Administrative Remedy Procedure by a federal court as
2 authorized and required by 42 U.S.C. 1997(e)(a), and the implementation of the procedure, this
3 procedure shall constitute the administrative remedies available to a prisoner for the purpose of
4 preserving any cause of action under the purview of the Administrative Remedy Procedure,
5 which a prisoner may claim to have against the State of North Carolina, the Division of Adult
6 Correction and Juvenile Justice of the Department of Public Safety, or its employees.

7 (b) No State ~~court~~court, including the North Carolina Industrial Commission, or
8 administrative body shall entertain a prisoner's grievance or complaint which falls under the
9 purview of the Administrative Remedy Procedure unless and until the prisoner shall have
10 exhausted the remedies as provided in ~~said~~the procedure. If the prisoner has failed to pursue
11 administrative remedies through this procedure, any petition or complaint ~~he~~the prisoner files
12 shall be stayed for 90 days to allow the prisoner to file a grievance and for completion of the
13 procedure. If at the end of 90 days the prisoner has failed to timely file ~~his~~the grievance, then
14 the petition or complaint shall be dismissed. ~~Provided, however, that the court can waive the~~
15 ~~exhaustion requirement if it finds such waiver to be in the interest of justice."~~

16 **SECTION 8.(e)** G.S. 143-291.2 reads as rewritten:

17 **"§ 143-291.2. Costs and fees.**

18 (a) The Industrial Commission may by order tax the costs against the losing party in the
19 same amount and the same manner as costs are taxed in the Superior Court Division of the
20 General Court of Justice. However, in no event shall the Industrial Commission tax the cost
21 against the prevailing party. When a State department, institution, or agency appeals to the full
22 commission the decision rendered by a hearing commissioner, the State department, institution,
23 or agency shall furnish a copy of the transcript of the hearing to the appellee without cost. The
24 State department, institution, or agency concerned may pay the costs taxed against it. When costs
25 are not paid by a party from whom they are due, the Industrial Commission shall issue an
26 execution for the costs and attach a bill of costs to each execution. The Sheriff shall levy upon
27 the execution as provided in Chapter 6 of the General Statutes in civil actions.

28 (b) The Industrial Commission shall charge a filing fee for each affidavit initiating a
29 claim filed under this Article in an amount equal to the filing fee charged for civil actions in the
30 Superior Court Division of the General Court of Justice. No filing fee shall be required of indigent
31 persons, provided each claim by an indigent complies with all statutory and administrative
32 requirements applicable to the filing of civil actions by indigents in the Superior Court Division
33 of the General Court of Justice.

34 (c) In no event shall a currently incarcerated inmate, bringing a claim under this Article,
35 be granted indigent status if the inmate has, on three or more prior occasions, while incarcerated
36 or detained in any State facility, brought an action or appeal before the Industrial Commission
37 which was dismissed on the grounds that it is frivolous, malicious, not within the statute of
38 limitations, exceeds the exclusive jurisdiction of the Industrial Commission, or fails to state a
39 claim upon which relief may be granted."

40 **SECTION 8.(f)** G.S. 143-295 reads as rewritten:

41 **"§ 143-295. Settlement of claims.**

42 (a) Any claims except claims of minors pending or hereafter filed against the various
43 departments, institutions and agencies of the State may be settled upon agreement between the
44 claimant and the Attorney ~~General for an~~General, or between the various departments,
45 institutions, and agencies of the State and the claimant, for any amount not in excess of
46 twenty-five thousand dollars (\$25,000), without the approval of the Industrial Commission. The
47 Attorney General may also make settlements by agreement for claims in excess of twenty-five
48 thousand dollars (\$25,000) and claims of infants or persons **non sui juris**, provided such claims
49 have been subject to review and approval by the Industrial Commission.

1 (b) In settlements under twenty-five thousand dollars (\$25,000), agreed upon between
2 the Attorney General-General, or the various departments, institutions, and agencies of the State,
3 and the claimant, the filing of an affidavit as set forth in G.S. 143-297 shall not be required.

4 (c) Transfer of title of a motor vehicle acquired in behalf of the State in settlement of
5 claim pursuant to the provisions of this Article may be transferred by the Attorney General in the
6 same manner as provided for such transfer by an insurance company under the provisions of
7 G.S. 20-75."

8 **SECTION 8.(g)** Article 1 of Chapter 143 of the General Statutes is amended by
9 adding a new section to read:

10 **"§ 143-299.5. Limited liability for claims against the Department of Public Safety, Division**
11 **of Adult Correction and Juvenile Justice.**

12 The Department of Public Safety, Division of Adult Correction and Juvenile Justice, shall
13 not be liable for damages under this Article for the acts or the omissions of its employees tasked
14 with the supervision, protection, control, confinement, or custody of the State's inmate
15 population, unless such acts or omissions amount to gross negligence."

16 **SECTION 8.(h)** G.S. 143-299.1A reads as rewritten:

17 **"§ 143-299.1A. Limit use of public duty doctrine as an affirmative defense.**

18 (a) Except as provided in subsection (b) of this section, the public duty doctrine is an
19 affirmative defense on the part of the State department, institution, or agency against which a
20 claim is asserted if and only if the injury of the claimant is the result of any of the following:

21 (1) The alleged negligent failure to protect the claimant from the action of others
22 or from an act of God by a law enforcement officer as defined in subsection
23 (d) of this section.

24 (2) The alleged negligent failure of an officer, employee, involuntary servant or
25 agent of the State to perform a health or safety inspection required by statute.

26 (b) Notwithstanding subsection (a) of this section, the affirmative defense of the public
27 duty doctrine may not be asserted in any of the following instances:

28 (1) Where there is a special relationship between the claimant and the officer,
29 employee, involuntary servant or agent of the State.

30 (2) When the State, through its officers, employees, involuntary servants or
31 agents, has created a special duty owed to the claimant and the claimant's
32 reliance on that duty is causally related to the injury suffered by the claimant.

33 (3) Where the alleged failure to perform a health or safety inspection required by
34 statute was the result of gross negligence.

35 (c) This section does not apply to a unit of local government or its officers, employees,
36 or agents.

37 (d) Nothing in subsection (b) of this section shall limit the application of the public duty
38 doctrine in cases where the claimant is an inmate in the custody of the Department of Public
39 Safety, Division of Adult Correction and Juvenile Justice, except where the injury arises as the
40 result of the Department's, or its staff members', gross negligence.

41 ~~(d)~~(e) For purposes of this section, "law enforcement officer" means a full-time or part-time
42 employee or agent of a State department, institution, or agency or an agent of the State operating
43 under an agreement with a State department, institution, or agency of the State who is any of the
44 following:

45 (1) Actively serving in a position with assigned primary duties and
46 responsibilities for prevention and detection of crime or the general
47 enforcement of the criminal laws of the State or serving civil processes.

48 (2) Possesses the power of arrest by virtue of an oath administered under the
49 authority of the State.

50 (3) Is a juvenile justice officer, chief court counselor, or juvenile court counselor.

- 1 (4) Is a correctional officer performing duties of custody, supervision, and
- 2 treatment to control and rehabilitate criminal offenders.
- 3 (5) Is a firefighter as defined in G.S. 106-955(1).
- 4 (6) Is a probation officer appointed under Article 20 of Chapter 15 of the General
- 5 Statutes."
- 6

7 **PART IX. UPDATE STATUTE TO BECOME PRISM STEP 6 COMPLIANT.**

8 **SECTION 9.(a)** Article 3 of Chapter 20 of the General Statutes is amended by adding
 9 a new section to read:

10 **"§ 20-43.3. Authorization for the collection of data to enforce the Federal Motor Carrier**
 11 **Safety Administration's Performance and Registration Information Systems**
 12 **Management (PRISM) program.**

13 The Division is authorized to collect and maintain necessary motor carrier or commercial
 14 motor vehicle data in a manner that complies with the information system established by the
 15 United States Secretary of Transportation under 49 U.S.C. § 31106."

16 **SECTION 9.(b)** G.S. 20-54 reads as rewritten:

17 **"§ 20-54. Authority for refusing registration or certificate of title.**

18 The Division shall refuse registration or issuance of a certificate of title or any transfer of
 19 registration upon any of the following grounds:

20 ...

- 21 (9) The applicant motor carrier is subject to an order issued by the Federal Motor
 22 Carrier Safety Administration or the Division to cease all operations based on
 23 a finding that the continued operations of the motor carrier pose an "imminent
 24 hazard" as defined in 49 C.F.R. § 386.72(b)(1)-Division. The Division shall
 25 deny registration of a vehicle of a motor carrier if the applicant fails to disclose
 26 material information required, has made a materially false statement on the
 27 application, has applied as a subterfuge for the real party in interest who has
 28 been issued a Federal Motor Carrier Safety Administration out-of-service
 29 order, or if the applicant's business is operated, managed, or otherwise
 30 controlled or affiliated with a person who is ineligible for registration,
 31 including the applicant entity, a relative, family member, corporate officer, or
 32 shareholder. The Department shall deny registration for a vehicle that has been
 33 assigned for safety to a commercial motor carrier who has been prohibited
 34 from operating by the Federal Motor Carrier Safety Administration or a carrier
 35 whose business is operated, managed, or otherwise controlled or affiliated
 36 with a person who is ineligible for registration, including the owner, a relative,
 37 family member, corporate officer, or shareholder.

38"

39 **SECTION 9.(c)** G.S. 20-110 reads as rewritten:

40 **"§ 20-110. When registration shall be rescinded.**

41 ...

42 (m) The Division shall rescind and cancel the registration of vehicles of a motor carrier
 43 that is the subject to ~~of~~ an order issued by the Federal Motor Carrier Safety Administration or the
 44 ~~Division to cease all operations based on a finding that the continued operations of the motor~~
 45 ~~carrier pose an "imminent hazard" as defined in 49 C.F.R. § 386.72(b)(1)-Division.~~

46 (n) The Division shall rescind and cancel the registration of a vehicle of a motor carrier
 47 if the applicant fails to disclose material information required, has made a materially false
 48 statement on the application, has applied as a subterfuge for the real party in interest who has
 49 been issued a Federal Motor Carrier Safety Administration out-of-service order, or if the
 50 applicant's business is operated, managed, or otherwise controlled or affiliated with a person who
 51 is ineligible for registration, including the applicant entity, a relative, family member, corporate

1 officer, or shareholder. The Division shall rescind and cancel the registration for a vehicle that
2 has been assigned for safety to a commercial motor carrier who has been prohibited from
3 operating by the Federal Motor Carrier Safety Administration or a carrier whose business is
4 operated, managed, or otherwise controlled or affiliated with a person who is ineligible for
5 registration, including the owner, a relative, family member, corporate officer, or shareholder."

6 **SECTION 9.(d)** G.S. 20-381(a) reads as rewritten:

7 "**§ 20-381. Specific powers and duties of Department of Public Safety applicable to motor**
8 **carriers; agricultural exemption.**

9 (a) The Department of Public Safety has the following powers and duties concerning
10 motor carriers:

11 ...

12 (4) To determine the safety fitness of intrastate motor carriers, to assign safety
13 ratings to intrastate motor carriers as defined in 49 C.F.R. § 385.3, to direct
14 intrastate motor carriers to take remedial action when required, to prohibit the
15 operation of intrastate motor carriers ~~rated unsatisfactory, to determine~~
16 ~~whether the continued operations of intrastate motor carriers pose an~~
17 "imminent hazard" as defined in 49 C.F.R. § 386.72(b)(1), and to prohibit the
18 operation of an intrastate motor carrier found to be an "imminent hazard" as
19 defined in 49 C.F.R. § 386.72(b)(1).when subject to an out-of-service order
20 issued by the Federal Motor Carrier Safety Administration or the Department.

21 (5) ~~To prohibit the intrastate operation of a motor carrier subject to an enforce any~~
22 ~~order issued by the Federal Motor Carrier Safety Administration to cease all~~
23 ~~operations based on a finding that the continued operations of the motor~~
24 ~~carrier pose an "imminent hazard" as defined in 49 C.F.R. §~~
25 386.72(b)(1).including the authority to seize registration plates pursuant to the
26 provisions of G.S. 20-45 from motor carriers whose registration was rescinded
27 and cancelled pursuant to G.S. 20-110(m) or G.S. 20-110(n)."

28 **SECTION 9.(e)** This act is effective 90 days after it becomes law.
29

30 **PART X. RECODIFY DEFINITIONS SECTION FROM ARTICLE 32 OF CHAPTER 14**
31 **OF THE GENERAL STATUTES TO ARTICLE 33 OF CHAPTER 14 OF THE**
32 **GENERAL STATUTES.**

33 **SECTION 10.** G.S. 14-254.5 is recodified as G.S. 14-259.1.
34

35 **PART XI. UPDATE PEER SUPPORT STATUTE TO INCLUDE ALL FIRST**
36 **RESPONDERS.**

37 **SECTION 11.** G.S. 8-53.10(a) reads as rewritten:

38 "(a) Definitions. – The following definitions apply in this section:

39 (1) Client law enforcement employee. – Any law enforcement employee or a
40 member of his or her immediate family who is in need of and receives peer
41 counseling services offered by the officer's employing law enforcement
42 agency.

43 (1a) Emergency personnel officer. – Firefighting, search and rescue, or emergency
44 medical service personnel, or any employee of any duly accredited State or
45 local government agency possessing authority to enforce the criminal laws of
46 the State who (i) is actively serving in a position with assigned primary duties
47 and responsibilities for prevention and detection of crime or the general
48 enforcement of the criminal laws of the State and (ii) possesses the power of
49 arrest by virtue of an oath administered under the authority of the State.

50 ...

- 1 (3) Peer counselor. – Any law enforcement ~~officer-officer~~, emergency personnel
2 officer, or civilian employee of a law enforcement agency who:
3 a. Has received training to provide emotional and moral support and
4 counseling to client law enforcement ~~employees—employees~~,
5 emergency personnel, and their immediate ~~families; and~~families.
6 b. Was designated by the sheriff, police chief, or other head of a law
7 enforcement or emergency agency to counsel a client law enforcement
8 employee.
9 (4) Privileged communication. – Any communication made by a client law
10 enforcement ~~employee—employee~~, emergency personnel, or a member of the
11 client law enforcement employee's immediate family to a peer counselor while
12 receiving counseling."
13

14 **PART XII. EFFECTIVE DATE.**

15 **SECTION 12.** Except where otherwise provided, the remainder of this act is
16 effective when it becomes law.